UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

ROSLYN GOLDMAN, Plaintiff, v. IKEA ILLINOIS, LLC, an Illinois Limited Liability Company, d/b/a IKEA SCHAUMBURG, IKEA HOLDING US INC., IKEA US WEST INC., IKEA PROPERTY INC., Defendants.	)	No.: 16 cv 06234

DEFENDANT'S ANSWER AND AFFIRMATIVE DEFENSES TO PLAINTIFF'S COMPLAINT

NOW COMES Defendant, IKEA U.S. WEST, INC. (incorrectly sued as IKEA ILLINOIS, LLC an Illinois Limited Liability Company, d/b/a IKEA SCHAUMBURG, IKEA HOLDING US INC., and IKEA PROPERTY INC.), by and through its attorneys, BRYCE DOWNEY & LENKOV LLC, and for its Answer and Affirmative Defenses to Plaintiff's Complaint, hereby states as follows:

1. That at on or about June 14, 2014 the Defendants, IKEA ILLINOIS, an Illinois Limited Liability Company, d/b/a IKEA SCHAUMBURG, and IKEA HOLDING US INC., IKEA U.S. INC., and IKEA PROPERTY INC. owned, maintained and operated the place of business located at 1800 East McConnor Parkway, Schaumburg, Illinois, Cook County Illinois.

ANSWER: **Defendant admits that it maintained and operated a retail store at the time and place as alleged but denies the remainder of the allegations contained in Paragraph No. 1.**

2. That at said time, and immediately thereto, Plaintiff, ROSLYN GOLDMAN, was a patron engaged in shopping in said store.

ANSWER: **Defendant has insufficient information with which to admit or deny the allegations contained in Paragraph No. 2 and therefore neither admits nor denies the same but demands strict proof thereof at trial.**

3. That it then and there was the duty of the Defendants, each of them, to exercise reasonable care in the maintenance, repair and upkeep of said premises.

ANSWER: **Defendant admits only to those duties imposed by law but denies that Paragraph No. 3 accurately states those duties and therefore denies the allegations contained in Paragraph No. 3.**

4. That on or about June 14, 2016, the Plaintiff while shopping, tripped on a rolled up rug and violently fell down to and upon the floor.

ANSWER: Defendant denies the allegations contained in Paragraph No. 4.

5. That on prior occasion patrons had tripped and fallen in the aisles due to merchandise jutting into the aisle walkway.

ANSWER: Defendant denies the allegations contained in Paragraph No. 5.

6. That despite the aforementioned duty, Defendants, each of them, was then and there guilty of one or more of the following negligent acts and omissions:

a. Improperly stacked rugs which protruded into the aisle creating a walking hazard;
b. Allowed rugs to remain improperly stacked once it knew or should have known the rugs constituted a tripping hazard;
c. Failed to provide warnings of the above described tripping hazards;
d. Failed to maintain policies and procedures relative to tripping hazards located in the aisle of the store.

ANSWER: Defendant denies the allegations contained in Paragraph No. 6 including sub-paragraphs a-d inclusive.

7. That as a direct and proximate result of the aforesaid negligence of the Defendant, the Plaintiff was injured, she has and will suffer pain and anguish, she has and will incur medical expenses endeavoring to be cured of her said injuries, she has and will be kept from attending to her ordinary affairs of life, and she has and will lose large gains, earnings and profits which she otherwise would have earned.

ANSWER: Defendant denies the allegations contained in Paragraph No. 7.

WHEREFORE, Defendant, IKEA U.S. WEST, INC., prays for judgment to be entered in its favor and against Plaintiff, ROSLYN GOLDMAN, plus costs and any other and further relief which this Honorable Court deems necessary and just.

FIRST AFFIRMATIVE DEFENSE

1. On or about 6/14/14, Plaintiff, ROSLYN GOLDMAN, was allegedly at the retail store operated by Defendant at 1800 E. McConnor Parkway, Schaumburg, Illinois.

2. At that time, Plaintiff, ROSLYN GOLDMAN, claims she was injured when she allegedly tripped on a rolled up rug and fell to the floor at the subject store.

3. At the time of the accident in question, Plaintiff, ROSLYN GOLDMAN, had a duty to exercise ordinary care for her own safety.

4. Notwithstanding this duty and in direct violation thereof, Plaintiff was guilty of one or more of the following acts and/or omissions which proximately caused her alleged injuries and damages as alleged in Plaintiff's Complaint:

a. Failed to exercise reasonable care and caution for her own safety;
b. Failed to observe an open and obvious condition;
c. Failed to keep a proper lookout;
d. Failed to avoid an open and obvious condition; and
e. Acted otherwise carelessly and negligently.

5. Plaintiff was herself at fault for the injuries and damages alleged in her Complaint.

6. At all times relevant, 735 ILCS 5/2-1116 was an Illinois Statute in full force and effect.

7. Plaintiff, ROSLYN GOLDMAN's contributory fault is more than 50% of the proximate cause of the alleged injuries or damages and her fault bars her claim against this Defendant pursuant to 735 ILCS 5/2-1116.

WHEREFORE, Defendant, IKEA U.S. WEST, INC., prays that in the event the trier of fact finds the negligence of Plaintiff exceeds 50%, this Honorable Court enter an order barring Plaintiff from any recovery, dismissing Plaintiff's Complaint with prejudice and without costs and for such other relief as this Honorable Court deems necessary and just.

SECOND AFFIRMATIVE DEFENSE

1-5. Defendant restates and realleges Paragraph 1-5 of its First Affirmative Defense as Paragraphs 1-5 of its Second Affirmative defense as if fully restated herein.

6. If Plaintiff, ROSLYN GOLDMAN's contributory fault is less than or equal to 50% of the proximate cause of her alleged injuries and/or damages, any such damages are diminished in proportion to the amount of fault attributable to the Plaintiff, pursuant to 735 ILCS 5/2-1116.

WHEREFORE, Defendant, IKEA U.S. WEST, INC., respectfully requests that this Court reduce any judgment rendered against Defendant, IKEA U.S. WEST, INC., in an amount commensurate with Plaintiff, ROSLYN GOLDMAN's percentage of contributory fault and any such other and further relief as this Honorable Court deems necessary and just.

BRYCE DOWNEY & LENKOV LLC

IKEA US WEST, INC.
By: s:/*Christopher M. Puckelwartz*
One of Defendant's Attorneys

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AFFIDAVIT FOR LACK OF KNOWLEDGE

CHRISTOPHER M. PUCKELWARTZ, being first duly sworn upon oath, deposes and states that he is one of the attorneys for Defendant, IKEA U.S. WEST, INC., and that he has insufficient information to form a belief as to the truth or falsity of the allegations contained within the in Paragraph No. 2 of Plaintiff's Complaint.

BRYCE DOWNEY & LENKOV LLC

DOLLAR TREE STORES, INC.

By: *s:/Christopher M. Puckelwartz*
One of Defendant's Attorneys

CERTIFICATE OF SERVICE

I hereby certify that on **July 5, 2016**, I electronically filed the foregoing **Defendant's Answer and Affirmative Defenses to Plaintiff's Complaint** with the Clerk of Court using the CM/ECF system which will send notification of such filing(s) to the following:

BRYCE DOWNEY & LENKOV LLC

DOLLAR TREE STORES, INC.
By: */s/Christopher M. Puckelwartz*
One of Defendant's Attorneys

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